



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

SEP 05 2006

Technology Center 2100

In re Application of: Furukawa, et al.
Application No. 10/791,452
Filed: March 1, 2004
For: STORAGE SUBSYSTEM, STORAGE
SYSTEM, AND COMMUNICATION
CONTROL METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed February 7, 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special. The original petition was filed on February 17, 2005 and dismissed in a decision mailed on May 12, 2005.

The Petition is **DENIED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

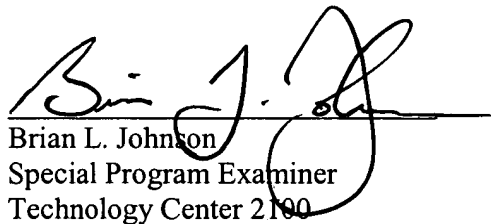
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The previous decision, mailed on May 12, 2005 set a two-month period for submission of any request for reconsideration (from the date of mailing of that decision). Any potential period or extension of time, under 37 CFR 1.136(a), have since expired.

The petition filed February 7, 2006 in the instant application is beyond the two-months period for response set forth in the previous decision. No request or petition for extension of time accompanied the renewed petition. The renewed petition therefore is considered to be untimely.

Accordingly, the petition to Make Special is **DENIED**. The application is being returned to the Examiner's docket to await examination in its proper turn based on its effective filing date.

Any inquiries related to this decision may be directed to Specials Programs Examiner Brian Johnson at 571-272-3595.



Brian L. Johnson
Special Program Examiner
Technology Center 2100

Computer Architecture, Software and Information Security